



भारत का राजपत्र The Gazette of India

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EXTRAORDINARY

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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 20th June, 1980:—

I

BILL NO. I OF 1980

A Bill to provide for the establishment of a permanent Bench of the High Court of Bombay at Aurangabad

Be it enacted by Parliament in the Thirty-first Year of the Republic of India as follows:—

1. This Act may be called the High Court of Bombay (Establishment of a Permanent Bench at Aurangabad) Act, 1980.

Short title.

2. There shall be established a permanent bench of the High Court of Bombay at Aurangabad, and such Judges of the High Court of Bombay, being not less than three in number, as the Chief Justice of that High Court may, from time to time nominate, shall sit at Aurangabad in order to exercise the jurisdiction and power for the time being vested in that High Court in respect of cases arising in the districts of Aurangabad, Nanded, Osmanabad, Bhir and Parbhani.

Establishment of a permanent Bench of High Court of Bombay at Aurangabad.

STATEMENT OF OBJECTS AND REASONS

There is need for locating a bench of the High Court of Bombay in the Marathwada region of the State of Maharashtra in the interest of administration of speedy and cheap justice and for the convenience of the litigant public of the region. The Bill provides for the establishment of such a Bench at Aurangabad, the largest and well connected city in the region.

S. K. VAISHAMPAYEN

II

BILL No. V of 1980

A Bill to provide for employment to blind persons and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Thirty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Blind Persons (Employment) Act, 1980.

Short
title
extent
and
com-
mence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States.

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) "appropriate Government" means,—

(i) in relation to—

(1) any establishment of any railway major port, mine or oil field; or

(2) any establishment owned, controlled or managed by the Central Government; or

(3) a company in which not less than fifty-one per cent of the share capital is held by the Central Government or partly by the Central Government and partly by one or more State Governments; or

(4) a corporation (including a co-operative society) established under a Central Act or owned, controlled managed by the Central Government.

(ii) in relation to any other establishment, the Government of the State in which that other establishment is situated;

(b) "blind person" means a person who is blind according to any of the following standards,

(i) total absence of sight; or

(ii) visual equity (with correcting lenses) not exceeding 20/200 or 6/60 (snellen) in the better eye; or

(iii) angle of vision subtending 20 or less in the better eye;

(c) "chief registering authority" means the authority appointed under section 6;

(d) "employer" means any persons who employs fifty or more persons to do any work in an establishment for remuneration and includes any person entrusted with the supervision and control of employees in such establishment;

(e) "establishment" means—

(i) any office, or department of the Government or a local authority; or

(ii) any place where any industry, trade, business or occupation is carried on;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "register" means the register maintained under section 7;

(h) "registering authority" means the authority appointed under section 5.

Act not to apply in relation to certain employments.

3. This Act shall not apply in relation to—

(a) any employment in agriculture (including horticulture);

(b) any employment in domestic service;

(c) any employment which carries a remuneration of less than three months;

(d) any employment which carries a remuneration of less than rupees one hundred per mensem;

Employers to reserve certain percentage of vacancies in employments.

4. As from the commencement of this Act, every employer shall reserve not less than three per cent of the vacancies occurring in any year in any employment in the establishment to be filled in by blind persons who are registered under this Act.

Appointment of registering authorities.

5. The appropriate Government may, by notification in the Official Gazette, appoint as many authorities as it deems necessary as Registering Authorities for the purpose of registration of blind persons and may, in that notification, define the limits within which each such Authority shall exercise its jurisdiction.

6. Without prejudice to the provisions of section 5, the appropriate Government may, by notification in the Official Gazette, appoint such authority, as it deems fit, as the Chief Registering Authority for the purposes of this Act.

Appoint-
ment of
Chief
Regis-
tering
Autho-
rity.

7. (1) A blind person for registration under this Act may make an application to the registering authority within whose jurisdiction he resides in such form and in such manner as may be prescribed.

Registra-
tion of
blind
persons.

(2) On receipt of an application under sub-section (i), the Registering Authority may cause such inquiries to be made as it deems necessary and if it is satisfied that the applicant is a blind person it shall register his name in a register and issue him a certificate of registration in the prescribed form.

(3) A Register for the purpose shall be maintained by the Registering Authority in such form and in such manner as may be prescribed.

8. Every Registering Authority in a State shall submit to the Chief Registering Authority of the State such periodical returns (including a list of the blind persons registered with the registering authority) within such intervals and with such particulars as may be prescribed.

Regis-
tering
autho-
rities to
submit
period-
ical
returns
to the
Chief
Regis-
tering
Autho-
rity.

9. Every employer shall before filling up any vacancy in any establishment notify that vacancy to the registering authority within whose jurisdiction that establishment is situated.

Emplo-
yers to
notify
vacan-
cies to
the
Regis-
tering
autho-
rities.

10. (1) As soon as may be after the receipt of the notification of the vacancies under section 9, the Registering Authority shall furnish a list of blind persons registered with it, containing such particulars as may be prescribed, to the employer who has notified the vacancies under that section and thereupon the employer shall, within the prescribed period, fill up the percentage of vacancies prescribed in section 4 by appointing such of the blind persons as he considers suitable and inform in writing the fact of such appointment to the Registering Authority.

Regis-
tering
Autho-
rity to
furnish
list of
blind
persons
to em-
ployers.

(2) No employer shall reject a blind person on the ground that he cannot perform a particular job unless so certified by a Board of Experts.

(3) In case a Board of Experts certifies that a particular blind person can perform a particular job with the help of any available modern technological aids, it shall be the responsibility of the appropriate

Government to provide such aids to the concerned employer on loan for the period of employment of such blind person.

(4) The appropriate Government shall appoint a Board of Experts in such manner as may be prescribed which shall, in each case, determine whether a blind person can perform a job with the help of modern aids.

(5) The decision of the Board of Experts shall be final and binding both on the appropriate Government and the employer.

(6) Where any registering authority in a State has no suitable blind person registered with it, it shall intimate this fact to the Chief Registering Authority of the State and thereupon the Chief Registering Authority shall forward to the Registering Authority the name of any blind person entered in the records maintained by the Chief Registering Authority upon which the provisions of sub-section (1) shall apply.

11. If any dispute arises between the employer and the Registering Authority as to the suitability of a blind person for appointment or as to whether such person is a blind person or not, such dispute shall be referred to such authority as may be specified in this behalf by the appropriate Government and the decision of such authority shall be final.

Disputes between the employer and the Registering Authority to be referred to specified authority.

12. When any blind person has been appointed in any establishment under section 10, the Registering Authority or, as the case may be, the Chief Registering Authority, shall remove the name of such person from the register or other records after a period of one year from the date of his appointment.

Removal of names of blind person from the register.

13. Where after the appointment of any blind person in any establishment under section 10 such person has been discharged by the employer, nothing in this Act shall preclude such person to get himself registered again with the Registering Authority in accordance with the provisions of this Act.

Re-registration of blind persons in certain cases.

14. (1) Where in any year any vacancies in an establishment reserved under section 4 cannot be filled in either due to the non-availability of suitable blind person or for any other sufficient reason, such vacancies may be filled in by the employer by appointment of persons who are not blind, but the number of such vacancies shall be carried forward to the succeeding year and so on upto the end of the fourth year:

Vacancies to be carried forward.

Provided that the aggregate of the vacancies carried forward to any year and the vacancies reserved under section 4 in that year shall not exceed fifty per cent of the vacancies (both reserved and unreserved) in that year.

(2) For the purpose of sub-section (1), a blind person shall not be deemed to be unsuitable to fill in the vacancy unless a certificate in this behalf is obtained by the employer from the registering authority.

15. (1) Every employer shall maintain registers and records giving such particulars of the blind persons as may be prescribed.

Employers to maintain records.

(2) The records maintained under sub-section (1) shall be open to inspection at all reasonable times by such persons as may be authorised in this behalf by general or special order by the appropriate Government.

16. The Central Government shall appoint a National Advisory Council and the State Governments shall appoint their own Advisory Councils to advise them on all problems arising from the implementation of this Act.

National Advisory Council.

17. The Central Government or the State Government, as the case may be, shall give an unemployment allowance of three hundred rupees to every blind person whose name appears in the register maintained under section 7 of this Act till such time as he is given an employment.

Unemployment Allowance.

18. (1) If any employer contravenes the provisions of section 4 or section 9 or section 10 of this Act or the rules made thereunder, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees, or with both.

Penalty.

(2) If any employer contravenes the provisions of sub-section (1) of section 15 or obstructs or causes obstruction to any officer authorised to inspect the records under sub-section (2) of that section, he shall be punishable with fine which may extend to one thousand rupees.

19. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by Companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation: For the purposes of this section,—

(a) "Company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Offences
by a
Govern-
ment
Depart-
ment.

20. Where an offence under this Act has been committed by any Department of Government, the head of such Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this section shall render the head of such Department liable to any punishment under this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

Power to
make
rules.

21. (1) The Central Government may, after consultation with the National Advisory Council referred to in section 16, by notification in the official Gazette, make rules for carrying out of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely:—

(a) the qualifications which a blind person shall possess to entitle him to make an application under section 7;

(b) the form in which an application under section 7 shall be made and the particulars which such application shall contain;

(c) the form and manner in which the register shall be maintained under section 7;

(d) the returns to be submitted to the Chief Registering Authority, the intervals within which such returns shall be submitted and the particulars which such returns shall contain;

(e) the particulars which a list of blind persons furnished under sub-section (1) of section 10 shall contain and the period within which the employer shall fill up the vacancies under that sub-section;

(f) the authority to which any dispute between the employer and the registering authority may be referred under section 11;

(g) any other matter which is to be or may be prescribed under this Act.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

It goes without saying that the handicapped persons in general and the blind persons in particular deserve special consideration. Provisions have been made by various laws and Government Orders for reservation of jobs for persons belonging to weaker sections of the society. It is only appropriate that blind persons also receive similar preferential treatment.

Hence this Bill.

SHIVA CHANDRA JHA

FINANCIAL MEMORANDUM

Clause 5 of the Bill enables the appropriate Government to appoint as many Registering Authorities as it deems necessary for the purpose of registration of blind persons. Clause 6 of the Bill empowers the appropriate Government to appoint a Chief Registering Authority for the purposes of the Act. Sub-clause (4) of Clause 10 provides for the appointment of Experts by the appropriate Government. Clause 16 of the Bill provides for the appointment of a National Advisory Council by the Central Government. Clause 17 of the Bill makes provision for giving unemployment allowance of three hundred rupees to every blind person till such time as he is given employment. Clause 21(1)(f) enables the Central Government to make rules to provide for an authority to which any dispute between the employer and the Registering Authority may be referred.

At this stage, it is not possible to estimate the exact expenditure involved from the Consolidated Fund of India both non-recurring and recurring. However, it is estimated that an expenditure of a sum of one crore of rupees is likely to be incurred as recurring expenditure and a sum of rupees five lakhs as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 21 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The matters with respect to which rules may be made are matters of administrative procedure or detail. The delegation of the legislative power is, therefore, of a normal character.

III

BILL NO. II OF 1980

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Thirty-first Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Constitution (Amendment) Act, 1980.

Amend-
ment of
article
326.

2. In article 326 of the Constitution, for the words “twenty-one years” the words “eighteen years” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

For strengthening democracy at its grass roots level it is imperative to lower the voting age to eighteen years from twenty-one years as at present by amending the Constitution. And this is what socialism demands.

Hence this Bill

SHIVA CHANDRA JHA.

FINANCIAL MEMORANDUM

This Bill proposes to make all young people who are between the ages of 18 and 21, voters for the purpose of elections to the House of the People and Legislative Assemblies of the States. Such a course would entail an additional outlay on the preparation of electoral rolls, etc. It will not be possible to estimate the exact amount of expenditure as a result of the proposed amendment. In any case the estimated recurring expenditure may not exceed fifteen lakhs rupees.

There will be no non-recurring expenditure.

IV

BILL NO. IV OF 1980

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Thirty-first Year of the Republic of India as follows:—

Short
title and
com-
mence-
ment.

1. (1) This Act may be called the Constitution (Amendment) Act, 1980.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
article 83.

2. In article 83 of the Constitution for clause (2), the following clause shall be substituted, namely:—

“(2) The House of the People, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the House:

Provided in case House is dissolved sooner, the newly elected House shall continue only for the remaining period of the said five years;

Provided further that any of the aforesaid periods may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

3. In article 172 of the Constitution for clause 1, the following clause shall be substituted, namely:—

Amend-
ment of
article 172.

“(1) Every Legislative Assembly of every State, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the Assembly:

Provided that in case the Assembly is dissolved sooner, the newly elected Assembly shall continue only for the remaining period of the said five years:

Provided further that to enable enforcement of this article the State Assemblies which came into existence after June, 1980 shall continue till the last day of the month of February, 1985 so as to synchronise their elections with that of the Lok Sabha.

Provided also that any of the said periods may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

STATEMENT OF OBJECTS AND REASONS

There has been a visible trend in our country that the ruling party at the Centre dissolves the Lok Sabha or the State Assemblies to suit its party interests. It is desirable that this trend is checked so as to bring about political stability in the country. Fixing of a definite period for holding elections every five years and curbing the temptation to manoeuvre elections to serve party interests would help not only in restoring the waning public faith and interest in Parliamentary democracy and the elections but also in saving the country from great financial strain resulting from frequent dissolution of the Lok Sabha and the State Assemblies. It would also have the effect of synchronising the elections to the Lok Sabha and the State Assemblies so as to enable the evolution of a national political pattern and thereby achieve the goal of political stability and check the prevalent political horse-trading.

This Bill seeks to achieve this object.

J. P. MATHUR.

V

BILL NO. III OF 1980

A Bill to establish a National Committee for Haj and Zarat for assisting Muslim pilgrims to Saudi Arabia, Syria, Iraq, Iran, and Jordan and for matters connected therewith

BE it enacted by Parliament in the Thirty-first Year of the Republic of India as follows:—

1. This Act may be called the National Committee for Haj and Ziarat Act, 1980.

Short
title.

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) "Committee" means the National Committee for Haj and Ziarat constituted under this Act;

(b) "pilgrim" means a Muslim proceeding on, or returning from, pilgrimage to Saudi Arabia, Syria, Iraq, Iran or Jordan;

(c) "pilgrim ship" or "pilgrim aircraft" means a ship or aircraft transporting or about to transport pilgrims from or to any seaport or airport in India to or from any seaport or airport in the countries referred to in clause (b);

(d) "prescribed" means prescribed by rules made under this Act.

Incor-
poration
of the
National
Com-
mittee
for Haj
and
Ziarat.

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette appoint in this behalf, there shall be established a Committee by the name of the National Committee for Haj and Ziarat.

(2) The Committee shall be a body corporate having perpetual succession and a common seal with powers to acquire, hold and transfer property, movable or immovable, and to create a charitable trust or endowment, subject to such conditions as may be prescribed and shall, by the said name, sue and be sued.

Compo-
sition
of the
Com-
mittee.

4. (1) The Committee shall consist of the following members, namely:—

(a) nine members of Parliament of whom six are to be nominated by the Speaker of the House of the People from among its Muslim members and three, by the Chairman of the Council of States from among its Muslim members;

(b) four members from each of the following categories of persons to be nominated by the Central Government:

(i) persons having expertise in public administration;

(ii) persons having expertise in Islamic theology and Mohammedan law;

(iii) persons associated with charitable institutions and voluntary agencies for social work;

(iv) persons associated with educational, social and cultural institutions of national standing:

Provided that at least one and not more than two persons shall be nominated from each of the States of Andhra Pradesh, Assam, Bihar, Gujarat, Jammu and Kashmir, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal;

(c) Six members representing the following Ministries/Departments of the Government of India:—

(a) Civil Aviation;

(b) Economic Affairs;

(c) External Affairs;

(d) Health;

(e) Railways;

(f) Revenue; and

(g) Shipping.

Nomina-
tion of
members.

5. (1) The members of the Committee shall be nominated in such manner as may be prescribed.

(2) As soon as may be after the nomination of the members of the Committee, the Central Government shall publish in the Official Gazette a Notification giving the composition of the Committee.

6. The term of office of the Committee shall be three years commencing on the day following the publication of the Notification under sub-section (2) of section 5:

Term
of
Office.

Provided that the term of the Committee may be extended by the Central Government, by a notification in the Official Gazette, for a period not exceeding one year at a time and not extending in any case beyond a period of five years.

7. (1) The Central Government shall convene the first meeting of the Committee and shall direct the Committee to elect a Chairman and two Vice-Chairmen from among its members;

Chairman
and
Vice-Chair
men.

(2) The Chairman and the Vice-Chairman shall exercise such powers and discharge such duties as may be prescribed.

(3) The election of the Chairman and Vice-Chairmen shall be notified by the Central Government in the Official Gazette.

(4) The term of Office of the Chairman and of the Vice-Chairmen shall be co-terminus with that of the Committee.

(5) Vacancy in the Office of the Chairman or of a Vice-Chairman shall be filled by election.

8. (1) The Central Government shall take or cause to be taken all necessary steps for the reconstitution of a new Committee before the expiry of the term or the extended term, as the case may be, of the Committee.

Consti-
tution of
new
Committee.

(2) No person shall be ineligible for nomination to the new Committee on the ground that he is or has been a member of the Committee.

9. (1) The duties of the Committee shall be—

Duties
of the
Com-
mittee.

(a) to advise the Government of India on all matters relating to the performance of Haj and Ziarat;

(b) to finalise the annual Haj and Ziarat Plan and to approve the guidelines for the proper organisation of Haj and Ziarat and for aid and assistance to the pilgrims;

(c) to approve the Annual Report and Annual Accounts for submission to the Central Government;

(d) to discharge such other duties in connection with pilgrim traffic as may be prescribed.

(2) The Central Government and the State Governments shall afford all reasonable assistance to the Committee in the discharge of its duties and give due consideration to the advice and recommendations of the Committee.

10. (1) The Committee shall meet at least twice in a year, soon after the Haj season is over and before the commencing of the next Haj season.

Meet-
ings of
the
Com-
mittee.

(2) It shall hold an extraordinary meeting as and when considered necessary by the Chairman or when requisitioned by at least half of its members.

(3) The quorum for a meeting of the Committee shall be one-third of the members of the Committee.

(4) The Chairman, the Vice-Chairmen and the Executive Officer of the Committee along with a representative of the Central Government shall constitute a Standing Committee to guide the functioning of the Committee.

Execu-
tive
officer
and
other
em-
ployees.

11. (1) The Committee shall have an Executive Officer who shall act as its *ex-officio* Secretary.

(2) The Executive Officer shall be appointed by the Committee out of a panel of names proposed by the Central Government on such terms and conditions as may be determined by the Central Government in consultation with the Committee.

(3) The Executive Officer shall execute the decisions of the Committee and perform such other functions as may be prescribed.

(4) The Executive Officer shall perform his functions under the guidance of the Standing Committee.

(5) The Committee may, subject to the approval of the Central Government, appoint such other employees as it may consider necessary for assisting the Executive Officer in the discharge of his duties.

(6) The Executive Officer shall be advised and assisted in the discharge of his duties at each port of exit or re-entry by a Pilgrims' Welfare Committee and an Advisory Committee.

Pilgrims
Welfare
and
Ad-
visory
Com-
mittees.

12. (1) The Committee shall nominate,—

(a) a Pilgrims' Welfare Committee consisting of—

(i) five representatives of charitable institutions and voluntary agencies interested in the welfare of the pilgrims;

(ii) five persons of high moral, social and professional standing from among the residents of the port of exit or re-entry;

(b) An Advisory Committee consisting of the senior-most representative of the following Departments and Organisations at the port of exit or re-entry, namely:—

(i) Department of Customs;

(ii) Mercantile Marine Department;

(iii) Port Health Organisation;

(iv) Director General of Civil Aviation;

(v) Port Authority;

(vi) Airport Authority;

(vii) Police;

(viii) Municipality;

(ix) State Haj Committee.

(2) The Executive Officer may convene a meeting of the Pilgrims' Welfare Committee and the Advisory Committee as often as may be considered necessary.

(3) The Executive Officer may, along with one or more members of the Pilgrims' Welfare Committee or the Advisory Committee, enter and inspect any pilgrim ship or pilgrim aircraft due to take pilgrims from or bringing pilgrims to the port of exit or re-entry.

13. Any officer of the Shipping Company or the Airlines who hinders or causes any other persons to hinder such inspections or fails to render reasonable facilities therefor shall be punishable with fine which may extend to five hundred rupees:

Penalty
for
causing
hindrance
to
ins-
pection.

Provided that no Magistrate other than a magistrate of the First Class shall take cognizance of such offence and such magistrate shall take cognizance of such offence only on a written complaint by the Executive Officer.

14. The Committee may appoint one or more Sub-Committees consisting of such number of members and other persons as may be prescribed for such purposes as it may deem fit.

Sub-
Committees.

15. (1) The Committee shall have its own Fund to be called the Haj Fund and there shall be placed to the credit thereof the following sums, namely:—

Haj
Fund.

44 of 1958.

(i) the interest on all deposits made by pilgrims under section 273 of the Merchant Shipping Act, 1958;

44 of 1958.

(ii) the fees charged for the registration of pilgrim passes in pursuance of any rule made under section 282 of the Merchant Shipping Act, 1958 and the Rules made thereunder;

(iii) the sums realised from the sale of the effects of deceased pilgrims and sums of money left by deceased pilgrims which are unclaimed for three years after death;

(iv) any fees which may be levied by the Executive Officer for the issue of visitor passes to friends and relations of pilgrims for boarding a pilgrim ship or aircraft;

(v) any sums contributed by the Central Government or any State Government to the Haj Fund;

(vi) any sums contributed or donated by private persons;

(vii) the amount standing at the commencement of this Act to the credit of the Haj Fund or the Indigent Pilgrims Fund.

16. The Central Government may, by notification in the Official Gazette, exempt the donations to the Haj Fund by individuals or institutions from the payment of income-tax.

Exemption
to indi-
viduals
and com-
panies
from
taxes.

17. All properties and assets owned or acquired before the establishment of the Committee under this Act by the Haj Committee, Bombay, shall, on the date of establishment, vest in the Committee and form part of the Haj Fund referred to in section 15.

Vesting of
property
in the
Commit-
tee.

18. The Haj Fund shall, subject to any Rules that may be made under this Act, be under the control and management of the Committee and shall be applied to the following purposes, namely:—

Applica-
tion of
the Haj
Fund.

(a) pay and allowances of the Executive Officer and other employees of the Committee;

(b) payment of charges and expenses incidental to the due performance of its duties by the Committee.

Annual
Report.

19. (1) The Committee shall, as soon as possible after the commencement of each financial year, submit to the Central Government a report in such form and before such date as may be prescribed, giving a true and full account of its activities, policy and programme during the previous financial year and an account of the activities likely to be undertaken during the current financial year.

(2) A copy of the report received under sub-section (1) shall be laid before each House of Parliament.

Power to
make
rules.

20. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the power under sub-section (1), such rules may provide for all or any of the following matters, namely:—

(a) the manner of nomination of the members of the Committee and the constitution of the State Haj Committees and the Pilgrims Welfare and Advisory Committees for the ports of exit or re-entry;

(b) the procedure for the election of the Chairman and the Vice-Chairmen of the Committee;

(c) the procedure for filling the vacancies in the office of the Chairman, Vice-Chairmen and other members of the Committee;

(d) the duties and powers of the Executive Officer and the terms and conditions of his service;

(e) the custody and operation of the Haj Fund;

(f) the procedure for the preparation, submission and approval of the Budget of the Committee;

(g) the returns, statements and reports to be submitted by the Executive Officer to the Committee;

(h) the Annual Report to be submitted to the Central Government by the Committee;

(i) any other matter which is to be, or may be, prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

21. (1) The Committee may make bye-laws not inconsistent with the provisions of this Act and the rules made thereunder in respect of the following matters, namely:—

Power to make bye-laws.

(a) laying down the procedure of business at meeting of the Committee;

(b) prescribing the registers and records to be maintained by the Executive Officer;

(c) prescribing the periodical reports to be submitted by the Executive Officer to the Committee;

(d) prescribing the procedure for the conduct of any other aspect of its work.

(2) The bye-laws made by the Committee under this section shall be submitted to the Central Government and shall not take effect until they have been confirmed by the Central Government and published in the Official Gazette.

22. (1) The Accounts of the Haj Fund or any other Fund operated by the Committee shall be audited by the Comptroller and Auditor General of India or by any other auditor as may be decided by the Central Government.

Audit of accounts.

(2) The cost of the audit shall form a charge on the Haj Fund.

23. The Officers and employees of the Committee, the auditors and all other persons duly appointed to discharge any duties under this Act or rules or bye-laws made thereunder, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Officers and employees of the Committee to be deemed public servants.

24. (1) If at any time the Central Government is of the opinion that the Committee is unable to perform its duties under this Act or has exceeded or abused its power, the Central Government may, by notification in the Official Gazette, supersede the Committee before the completion of its term for such period as may be specified in the notification:

Supersession of the Committee.

Provided that before issuing a notification under this sub-section the Central Government shall direct the Committee to show cause within a reasonable time as to why it should not be superseded and shall consider the reply, if any, by the Committee, before taking a final decision in the matter.

(2) Upon supersession of the Committee under sub-section (1)—

(a) all members of the Committee shall vacate their offices as members with effect from the date of supersession;

(b) all duties and powers which may under this Act be exercised or performed by or on behalf of the Committee shall, during the period of supersession be exercised and performed by such person or persons as the Central Government may direct.

(3) On the expiry of the period of supersession specified in the notification under sub-section (1), the Central Government may extend the period of supersession for such further period as it may consider necessary or decide to constitute a new Committee.

Repeal
and
Savings.

25. (1) The Haj Committee Act, 1959 is hereby repealed.

31 of 1959.

(2) Notwithstanding such repeal, the Haj Committee constituted under the said Act shall until the establishment of the Committee under this Act, continue to function as if this Act had not been passed and on such establishment of the Committee under this Act the Haj Committee shall stand dissolved.

STATEMENT OF OBJECTS AND REASONS

There has been widespread and oft expressed dissatisfaction over the efficacy of the existing Haj Committee Act, 1959, primarily because its composition is not representative of the Indian Muslim community as a whole, and there is preponderant almost overwhelming, representation of Bombay city. This has come about because the existing Act sought to transform what was a Port Haj Committee into a National Haj Committee. Secondly, the *ex-officio* members representing the various Ministries/Departments of the Government do not make any contribution to the formulation of policy. Thus there is no provision to separate the policy making function from the day-to-day administration. Thirdly, the existing Act suffers from lack of clarity regarding the role of the Committee and that of its Executive Officer which has culminated in a dyarchical structure in actual practice, where the Chairman is as much involved in the day-to-day administration as the Executive Officer. This leads to overlapping and confusion. Finally, the pattern of pilgrimage has changed considerably and, therefore, instead of amending the existing Act it is considered more appropriate to have a new enactment omitting many provisions which have no application in the changed circumstances and creating a new framework which would, as far as it is possible to envisage the future, ensure the proper administration of the pilgrimage, particularly the welfare of the pilgrims in the port of exit and re-entry and while in Saudi Arabia and other places of pilgrimage.

The Bill seeks to achieve the above objects.

SYED SHAHABUDDIN.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 18 of the Bill empower the Central Government to make rules to carry out the purposes of the Act. The matters in respect of which rules may be made relate to the manner of nomination of members of the Committee and other procedural matters.

Clause 19 of the Bill empowers the Committee to make bye-laws, not inconsistent with the provisions of the Act and the rules made thereunder, in respect of matters such as laying down of procedure of conduct of business at meetings of the Committee, prescribing the registers and records and periodical reports.

These matters are matters of details or procedure. The delegation of legislative power is, therefore, of a normal character.

VI

BILL No. VI OF 1980

A Bill to provide for the recognition of, and financial assistance to, Political Parties for ensuring their effective functioning and promoting sound democratic polity and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Thirty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Political Parties (Recognition and Financial Assistance) Act, 1980.

Short title, extent and commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Commission" means the Election Commission of India constituted under article 324 of the Constitution;

(b) "general secretary" means the chief executive functionary of a political party, by whatever designation he may be called;

(c) "political party" means an association or body of individual citizens of India registered with the Commission as a political party in accordance with the provisions contained in the Election Symbols (Reservation and Allotment) Order, 1968, made by the Commission in exercise of the powers conferred upon it by article 324 of the Constitution;

(d) "prescribed" means prescribed by rules made under this Act.

3. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of the Election Symbols (Reservation and Allotment) Order, 1968.

Application of the Election Symbols (Reservation and Allotment) Order, 1968.

4. (1) Every political party which has been in existence for two years or more and has a constitution of its own shall make an application in writing to the Commission for grant of recognition.

Recognition of political parties.

(2) Every such application shall be signed and presented to the Commission by a general secretary, or in his absence, by any other office bearer of the political party duly authorised for the purpose.

(3) The manner in which and the conditions subject to which such prescribed or as may be required by the Commission to enable it to grant recognition to a political party.

(4) The Commission shall have powers to call for such documents and other relevant information as may be necessary for the purpose of granting recognition to a political party.

(5) After considering all the particulars furnished by a political party as referred to in sub-section (4) and after giving the representative of the political party reasonable opportunity of being heard, if considered necessary by the Commission, the Commission shall give its decision on an application made to it under sub-section (1).

(6) The decision of the Commission under sub-section (5) shall be communicated to the general secretary of the political party and shall be final.

Derecog-
nition of
a political
party.

5. The Commission shall have powers to withdraw recognition of a political party for contravention of any provisions of this Act or the rules made thereunder:

Provided that no such recognition shall be withdrawn unless the general secretary of a political party has been given a reasonable opportunity of being heard in the matter.

Financial
assistance
to a poli-
tical
party.

6. (1) Every political party which has been recognised under this Act shall be granted by the Central Government such financial assistance as may be recommended by the Commission for the purpose of undertaking campaigning in elections.

(2) In recommending the quantum of financial assistance which shall be granted to a political party, the Commission shall have regard to the number of votes polled by a political party in the elections to the Lok Sabha or a State Assembly, the number of members on the register of a political party and such other factors as may be prescribed.

(3) The manner in which and the conditions subject to which such financial assistance shall be granted to a political party shall be such as may be prescribed.

Accounts
and
Audit.

7. (1) Every political party to which financial assistance has been granted under section 6 shall prepare and maintain proper accounts and other relevant records in such form and manner as may be prescribed.

(2) The accounts of a political party shall be audited by an auditor authorised to audit the accounts of a company under the Chartered Accountants Act, 1949.

(3) Every political party which has been granted financial assistance under section 6 shall within three months from the date of such grant or such extended period as the Central Government may allow, forward to the Central Government a certified copy of the audited accounts together with the audit report thereon.

(4) The Central Government shall prepare for every election a report on the financial assistance granted to political parties.

(5) A copy of the report under sub-section (4) shall be laid before each House of Parliament.

Power to
make
rules.

8. (1) The Central Government may in consultation with the Commission by a notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the particulars to be contained in an application under subsection (3) of section 4;

(b) the factors to be taken into account in granting financial assistance to a political party under section 6;

(c) the manner in which, and the conditions subject to which, financial assistance shall be granted to a political party;

(d) the preparation and maintenance of accounts and other records under section 8;

(e) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree that the rule should be either modified or annulled, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Parliamentary democracy envisaged in the Constitution of India can fruitfully succeed only when the political parties in the country function in an orderly manner and under public scrutiny. As at present the credibility of the political parties as also of the democratic process itself is under constant erosion. To check the continuance of this erosion, it is imperative that there should be some legislation to achieve the objective of orderly and smooth functioning of political parties and to that end to provide for the recognition of the political parties by the Election Commission and for financial assistance to them. This Bill seeks to achieve these objectives.

RAMLAL PARIKH

FINANCIAL MEMORANDUM

The Bill seeks to provide financial assistance to political parties for supporting the candidates to conduct their campaign as well as for maintaining a minimum orderly functioning. It is difficult to estimate the precise financial implications at this stage. However, thirty crores recurring expenditure will be required to begin with. This expenditure will be met from the Consolidated Fund of India.

The provisions of the Bill do not involve any expenditure of a non-recurring nature from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to frame rules in consultation with the Election Commission. The matters for which the rules may be framed are the particulars to be contained in an application of a political party for recognition, factors to be taken into account for determining quantum of financial assistance to be granted to a political party etc. The delegation of legislative power, therefore, is of a normal character.

S. S. BHALERAO,

Secretary-General.